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By Marilyn Van Millon at 10:08 am, Jun 16, 2025

Memorandum

To: Town of Dover Planning Board
From: AKRF, Inc.
Date: June 13, 2025
Re: 198 Dog Tail Corners Road – Special Permit for Accessory Dwelling
John Watson, P.E. (Applicant's Engineer)
cc: Kaitlyn Karcheski (Applicant's Representative)
Victoria Polidoro, Esq. (Planning Board Attorney)
Joseph Berger, P.E. (Planning Board Engineer)

AKRF, Inc. has reviewed the following documents and plans for the above referenced application:

- Cover Letter prepared by Insite Engineering dated May 28, 2025
- Site Plan Drawing Set (3 sheets) prepared by Insite Engineering dated May 28, 2025
- Interpretation from Donn Andersen, dated March 21, 2025
- Town of Dover Zoning Board of Appeals Resolution, dated May 12, 2025
- Hauser to Strawbridge Deed

Description

The Applicant and subject property owner, Gentle Place LLC, is applying for special permit and erosion and sediment control permit approval from the Planning Board for the placement of an approximately 416-square-foot, 1-bedroom prefabricated cabin structure that will be accessory to the principal 4-bedroom residence at 198 Dog Tail Corners Road (132600-7160-00-927735). The subject property is approximately 4.3 acres in size and is zoned RU and within the Stream Corridor, Floodplain, and Principal Aquifer overlays. The cabin is proposed south of the existing primary residence and garage. Utility connections to existing water and electrical infrastructure are also proposed, along with a new 1,000-gallon septic holding tank not connected to a disposal system.

Comments

Comments shown in *italicized* text are recited from AKRF's prior memoranda to the Planning Board. Any new or follow-up comments are presented in **bold** text.

Code Compliance

1. 2/28/2025: *An accessory apartment is defined in the Town Code as follows:*

"A dwelling unit occupying the lesser of 1,000 square feet or 30 percent of the floor space of an owner occupied structure containing a principal use that is single-family residential or nonresidential, or a dwelling unit no larger than 1,000 sf located in an accessory structure on an owner occupied property."

The proposed cabin is an accessory structure on an owner-occupied property, with a floor area less than 1,000 sf (approximately 416 sf).

While the accessory cabin appears to meet the floor area thresholds from the accessory apartment definition, Section 145-11(C) of the Zoning Code states that “the minimum floor area of a dwelling unit shall be 800 sf, and the minimum for an accessory apartment shall be 500 sf.”

The cabin does not fully meet the Town’s definition of a “dwelling unit,” since a full kitchen is not proposed (a kitchenette is shown). Therefore, it is unclear if the cabin can be treated as an accessory apartment under the Code. The proposed use of the cabin appears to be more of a lodging / extra bedroom use for guests of the property owner. From Town Code §145-74 a dwelling unit is defined as “a building or portion thereof providing complete housekeeping facilities for one family.”

If the application proceeds as an accessory apartment and the Applicant later decides to rent out the cabin to a tenant, they would have gone through the proper review process with the Planning Board. However, the Applicant may be required by the Town Building Department at a later date to bring the unit up to code as a “dwelling unit” (install a stove, etc.).

In consideration of the above, the board can seek input from the Code Enforcement Officer on the applicability of a special permit for this application. If the CEO interprets the cabin as an accessory apartment under the Code, granting of an area variance through the ZBA appears necessary due to the floor area being below the minimum 500 sf.

The remaining comments in this memorandum assume the cabin can be treated as an accessory apartment subject to a special permit approval from the Planning Board.

6/13/25: In an interpretation letter from the Town Engineer, the proposed cabin is not required to meet the Town definition of a “dwelling unit”. As such, the application can be treated as an accessory apartment, which required a variance to meet the 500 sf minimum area. The Applicant submitted an application to the Town of Dover Zoning Board of Appeals (ZBA) for an area variance to allow the 399 sf accessory apartment, which was granted at the May 12, 2025 meeting.

2. *2/28/2025: Pursuant to Zoning Code §145-12C, one accessory apartment per single-family dwelling may be located in an accessory structure, and the lot containing the accessory apartment must contain the minimum acreage required by the Dimensional Table (§145-11B) (2 acres for the RU district). The subject property is approximately 4.3-acres, which is above the minimum 2 acres.*

6/13/25: Comment acknowledged, no further comment.

3. *2/28/2025: As shown in the Bulk Regulations table on the Site Plan drawing, the primary residence and the proposed accessory cabin appear to meet all yard setback requirements for the RU district.*

6/13/25: Comment acknowledged, no further comment.

4. *2/28/2025: Since the subject property is within the Stream Corridor Overlay, a note should be added to the Site Plan that indicates any future development is subject to provisions/restrictions found at Section 145-14 of the Town of Dover Zoning Code. Additional comments related to the overlay are found below.*

6/13/25: Comment addressed. General Note #8 has been added to Drawing OP-1 on the revised site plan set.

5. *2/28/2025: Since the subject property is within the Town’s Aquifer Overlay District, specifically the Principal Aquifer Zone (PAZ). A note should be added to the Site Plan that indicates any future development is subject to provisions/restrictions found at Section 145-15 of the Town of Dover Zoning Code.*

6/13/25: Comment addressed. General Note #9 has been added to Drawing OP-1 on the revised site plan set.

6. *2/28/2025: The approximate boundary of the 100-year floodplain is shown on the Site Plan and the proposed cabin is located outside of the floodplain. A floodplain development permit should not be required.*

6/13/25: Comment acknowledged, no further comment.

7. 2/28/2025: The subject property requires 4 total parking spaces pursuant to §145-38A(2) of the Zoning Code. The existing and proposed condition depicted in the Site Plan set shows adequate space exists for these parking spaces.

6/13/25: Comment acknowledged, no further comment.

8. 2/28/2025: The Applicant has applied for the erosion and sediment control permit in connection with the special permit request. AKRF defers to the Town Engineer for review of the Erosion and Sediment Control permit requirements of Town Code Chapter 65. The cabin's location within the Stream Corridor Overlay requires ESC permit approval if the total disturbance exceeds 10,000 square feet.

6/13/25: Comment acknowledged, no further comment.

Wetlands / Watercourses

9. 2/28/2025: The Tenmile River abuts the subject property to the east and the southern extent of the property contains an unnamed stream that flows into the river, making the property subject to the Stream Corridor Overlay District requirements (Code Section 145-14). The Stream Corridor overlay extends 150 feet from the boundary of the river and the stream. These boundaries appear to be depicted correctly on the Site Plan drawing. Within the 150-foot boundary of the overlay, the Zoning Code requires a 100-foot setback for structures, which is also depicted on the plans. The proposed cabin and associated limits of disturbance are located beyond the 100-foot structural setback and therefore appear to be in compliance with the overlay.

However, because the cabin itself is within the 150-foot boundary of the overlay, it requires an erosion and sediment control permit if the area of disturbance exceeds 10,000 square feet (145-14F). The Applicant has applied for the erosion and sediment control permit in connection with the special permit request.

6/13/25: Comment acknowledged, no further comment.

10. 2/28/2025: Wetlands: Based on aerial photography and the NYSDEC Environmental Resource Mapper, the western extent of the subject property appears to contain freshwater wetlands. There is also an unnamed stream along the southern boundary of the lot that feeds into the Tenmile River. The wetland area (and stream) has not been formally delineated by the Applicant. Rather, the Applicant has approximated the extent of the wetland area based on the available 2-foot contour topographic data from Dutchess County Parcel Access GIS, which shows that there is an approximate 10-foot grade change between the approximate area of the wetland and the remainder of the property's lawn area.

Recent changes to NYSDEC's wetland regulations require a Parcel Jurisdictional Determination (Parcel JD) be submitted through NYSDEC's online request form, available here: <https://survey123.arcgis.com/share/be5c071ff72d4876986b18488721e55f>. A Parcel JD is an assessment made by NYSDEC as to whether a property includes regulated freshwater wetlands or regulated adjacent areas within the area boundaries. The Parcel JD does not state the extent of the wetlands on the property, only if there are jurisdictional wetlands present. To obtain information on the extent of a wetland, a wetland delineation needs to be done to confirm wetland boundaries.

Within 90 days, DEC will provide a JD letter indicating the status of jurisdictional wetlands (i.e., positive or negative) within the requested area. A negative parcel jurisdictional determination means there are no protected wetlands within the area indicated in the request and no wetland permit will be needed for any activities within the defined parcels.

A positive parcel jurisdictional determination means there are protected wetlands within the area indicated in the request, and coordination with regional DEC staff is necessary to determine if a wetland permit may be needed.

There is also a "Consultant Option" for Parcel JD requests where the project has hired a consultant, information on this option is available here: <https://dec.ny.gov/sites/default/files/2025-02/parceljdconsultant.pdf>. Under this option, which requires a delineation by a professional consultant, NYSDEC's Bureau of Ecosystem Health will review and schedule a boundary validation.

AKRF recommends the Applicant review the new regulations and submit the Parcel JD request under either option. As the response time from NYSDEC can vary, the Planning Board may wish to observe the wetland conditions on the property through a site visit in the interim.

6/13/25: The Applicant submitted a Parcel Jurisdictional Determination (JD) request to NYSDEC on March 4, 2025. No response has been received to date and the 90-day review period for the Parcel JD submission concluded on June 2, 2025.

According to NYSDEC's website, if an applicant has submitted a Parcel JD and has not received a response from NYSDEC after 90 calendar days, they must send a certified letter with return receipts to the following address notifying of failure to meet the 90-day determination deadline:

NYSDEC Director of the Division of Fish and Wildlife

625 Broadway

Albany, NY 12233-4750

The certified letter must contain the requestor's name and a copy of any materials sent to the department with the initial request. NYSDEC is required to respond to the certified letter within 10 business days. If NYSDEC fails to provide a definite answer within 10 business days of the receipt of such notice, freshwater wetland jurisdiction for the subject parcel shall be deemed waived for a period of five years from the date of the waiver.

Procedural

11. *2/28/2025: Pursuant to Zoning Code Section 145-10, "accessory apartments" are permitted as special permit uses in the RU district. The submitted application meets the code's definition of a minor project, and a public hearing will be required.*

6/13/25: Comment acknowledged and the Applicant requests the Planning Board set a date for a public hearing.

12. *2/28/2025: Pursuant to Section 37-5 of the Town Code, architectural review of the proposed cabin by the Planning Board (acting as the Architectural Review Board) appears to be required due to the use being subject to a special permit. Architectural plans have been provided by the Applicant.*

6/13/25: Comment acknowledged. The Applicant asks that the Planning Board provide any comments regarding the architecture of the proposed cabin

13. *2/28/2025: Since the subject property falls within 500 feet of Dog Tail Corners Road (a County Road) and within 500 feet of a farm operation within an agricultural district, the application is subject to referral to the Dutchess County Department of Planning pursuant to General Municipal Law 239-m. The County is required to respond within 30-days of receipt of the referral.*

6/13/25: According to Dutchess County Planning, special permits for residential uses (accessory apartments, home occupations, etc.) are exempt from 239-m referral. Therefore, referral is not required for this application.

14. *2/28/2025: Dutchess County Department of Behavioral and Community Health approval will be required for the proposed septic system upgrades on the property. According to the plans, the Applicant proposes to install a new 1,000 gallon septic holding tank that will not be connected to the existing disposal system. It is assumed the holding tank will require periodic pumping by a private disposal company. AKRF defers to the Town Engineer for any comments on the proposed design, including County Health Department procedures/policy related to the use of a holding tank with no disposal system.*

6/13/25: Comment acknowledged. The Applicant has started discussions with the Dutchess County Department of Behavioral and Community Health and they are preparing plans for the review and approval of the proposed holding tank system. The Planning Board may wish to await the Health Department's comments on the proposed system before scheduling a public hearing on the application.

15. 2/28/2025: *The subject property appears to share a driveway with the property to the north (202 Dog Tail Corners Road). If documentation related to the shared driveway condition is available, it should be shared with the Planning Board Attorney.*

6/13/25: Comment addressed. The ingress and egress easement over the subject property for the shared driveway with the parcel to the south is described in Schedule A of the deed document from Hauser to Strawbridge.

SEQRA

16. 2/28/2025: Since this application would technically result in a "two-family residence" on an approved lot, the application can be considered a Type II Action under the State Environmental Quality Review Act (SEQRA), which requires no environmental review. The applicable Type II citation is as follows:

"6 CRR-NY 617.5(c)(11) - Construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance or upgrade of a drinking water well or a septic system or both, and conveyances of land in connection therewith."

6/13/25: Comment acknowledged, no further comment.

Recommendations

At the June 16, 2025 meeting, AKRF recommends that the Planning Board discuss the application and consultant comments, discuss the status of County Health Department review, discuss NYSDEC JD timing, consider classifying the application as a Type II action under SEQRA, and discuss readiness for a public hearing.